

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Damon Lloyd

Plaintiff,

v.

Deanna Pettit, et al.

Defendants.

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Case No. 2:20-cv-01074

Judge Graham

Magistrate Judge Jolson

OPINION & ORDER

This matter is before the Court upon Plaintiff’s *Motion to Amend or Alter Judgment*, filed December 27, 2023. ECF No. 78. Plaintiff filed his Complaint on December 15, 2020. Summary judgment was entered in favor of the Defendants on April 26, 2022, and Plaintiff filed a notice of appeal on May 16, 2022. However, Plaintiff did not pay the filing fee, and thus his appeal was dismissed for want of prosecution on January 12, 2023. Thereafter, Plaintiff filed a *Motion to Reopen Case* on April 20, 2023. Adopting the Magistrate Judge’s Report and Recommendation, this Court denied the motion on December 11, 2023. ECF No. 77.

Plaintiff’s *Motion to Amend or Alter Judgment* argues, in essence, that the Court’s December 11 Order should be amended or altered because of alleged fraud on the court by Defendant Pettit in her responses to interrogatories. *Id.* In so doing, Plaintiff presents the same arguments which the Court rejected in the Order that he now seeks to amend. *See* ECF No. 77.

In this most recent motion, Plaintiff argues that Magistrate Judge Jolson erred because “[Fed.R. 60(d)(3)] does not limit a courts power... to set aside judgment for fraud upon the court.” ECF No. 78. Plaintiff is correct that the Court is empowered to set aside judgment for fraud on the court, but he is incorrect when he asserts that he has “clearly shown that the Defendant, Deanna

Pettit, engaged in conduct towards deceiving this Court which defines the purpose of Fed.R. 60(d)(3).” ECF No. 78.

The alleged fraud consists of Defendant Pettit’s responses to interrogatories. Plaintiff submitted an excerpt of Defendant Pettit’s responses as Exhibit 2 to his *Motion to Amend*. According to this exhibit, Interrogatory #22 asks “Identify the 1225 card/certificate?” [sic]. Pl. Mot. Ex. 2. Defendant Pettit’s response reads “I am personally unaware of what is a 1225 card/certificate.” *Id.* Interrogatory #23 asks “Is the 1225 card/certificate current and signed?” to which Defendant Pettit’s response reads, “I am personally unaware of what is a 1225 card/certificate to be able to properly answer this interrogatory.” *Id.* Via public records request, Plaintiff purportedly received an acknowledgment form identified as “DRC-1225 E” which appears to show the signature of Defendant Pettit dated August 26, 2019. Therefore, Plaintiff reasons, Defendant Pettit must have lied in her interrogatory responses.

Plaintiff did not submit any of the interrogatories with his *Motion to Reopen Case*, in which he made the same argument, and which was thoroughly rejected by the Magistrate for reasons beyond Plaintiff’s lack of evidence:

[E]ven if the Undersigned were to accept Plaintiff’s assertions as true without additional supporting evidence, the acknowledgment form only shows that Defendant Pettit received the ODRC Standards of Employee Conduct. This acknowledgment form does not, on its face, conflict with Defendant Pettit’s interrogatory answer that she was “unaware” of the policy changes. Conceivably, Defendant Pettit could have signed the acknowledgment form but failed to review the policy changes.

ECF No. 73. Magistrate Judge Jolson's Report and Recommendation was filed on June 8, 2023, and Plaintiff filed an objection on June 23, 2023. In other words, Plaintiff has already had an opportunity to attack the Report and Recommendation (ECF No. 74), and the Court has already had an opportunity to consider Plaintiff's attack and, consistent with the Magistrate, determined it to be meritless (ECF No. 77). The inclusion of the interrogatories in the most recent motion does not change the previous conclusions.

Plaintiff's *Motion to Amend or Alter Judgment* (ECF No. 78) is hereby **DENIED**. Plaintiff's *Motion to Strike Defendant's Untimely Memorandum in Opposition* (ECF No. 81) is **DENIED** as moot.

IT IS SO ORDERED.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: January 31, 2024